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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XF914

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Exempted Fishing Permit

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of receipt of an application for an exempted fishing permit; request for comments.

SUMMARY: NMFS announces the receipt of an application for an exempted fishing permit (EFP) from Clean Ocean Initiative, Inc. (Clean Ocean). If granted, the EFP would authorize Clean Ocean to fish for and retain Caribbean prohibited corals collected from 10 decommissioned submarine telecommunication cables being retrieved from U.S. exclusive economic zone (EEZ) waters in the Caribbean off of Puerto Rico.

DATES: Comments must be received no later than [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments on the application by either of the following methods:

- *E-mail: Sarah.Stephenson@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: "CLEAN OCEAN_EFP 2018".
- *Mail:* Sarah Stephenson, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

The application and related documents are available for review upon written request to any of the above addresses. All comments received, including all voluntarily submitted personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information, are part of the public record. NMFS will accept anonymous comments.

FOR FURTHER INFORMATION CONTACT: Sarah Stephenson, telephone: 727-824-5305, e-mail: *Sarah.Stephenson@noaa.gov*.

SUPPLEMENTARY INFORMATION: The EFP is requested under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq*.), and regulations at 50 CFR 600.745(b) concerning exempted fishing.

This action involves activity covered by regulations implementing the Fishery Management Plan for Corals and Reef Associated Plants and Invertebrates of Puerto Rico and

the U.S. Virgin Islands (FMP). The proposed application for exempted fishing involves activity that would otherwise be prohibited by regulations at 50 CFR part 622, as they pertain to coral and invertebrate FMP species managed by the Caribbean Fishery Management Council (Council). The EFP would exempt this activity from Federal regulations at § 622.472(b) (Caribbean prohibited coral). See 50 CFR 622.2 defining Caribbean prohibited coral and Appendix A to part 622.

Submarine telecommunication cables have been deployed throughout the U.S. EEZ in the Caribbean for many years and these cables may act as substrate for organisms to use as benthic habitat, such as corals and invertebrates. The applicant requests authorization to collect and retain prohibited coral, excluding Endangered Species Act (ESA)-listed species, from 10 decommissioned submarine telecommunication cables as they are being retrieved from waters in the U.S. EEZ off Puerto Rico. The applicant has been permitted by the United States Army Corps of Engineers (USACE), Antilles Section, to retrieve these decommissioned submarine cables in territorial and U.S. EEZ off Puerto

Rico waters. The EFP would only apply to coral collection and retention activities in Federal waters.

As part of an overall effort to remove decommissioned submarine cables, Clean Ocean would identify additional submarine cables in the U.S. EEZ off Puerto Rico and the U.S. Virgin Islands for possible future removal. If the applicant identifies any additional cables that could be removed, NMFS expects Clean Ocean will submit an additional application for an EFP authorizing coral collection and retention activities similar to those described herein.

The 10 cables from which the applicant is proposing to collect corals and invertebrates in its EFP application were deployed between 1874 and 1963 and have been inactive since 1986. Cable routes initiate in Puerto Rico and extend across the Caribbean basin, terminating in the Dominican Republic, Turks and Caicos, Antigua, or Florida. Activities permitted under the EFP would initiate at the inner boundary of the U.S. EEZ off Puerto Rico and terminate at the outer boundary of the U.S. EEZ, with an estimated minimum starting depth of 1,000 ft (305 m). Total lengths of the cables to be salvaged in territorial and Federal waters range from 41 nautical miles (nmi) to 172 nmi, and

the total estimated length to be retrieved from all 10 decommissioned cables is 947 nmi. The portion of the cable retrieved in Federal waters, from which the applicant seeks to collect and retain prohibited corals under an EFP, is unknown, but represents a smaller portion of this total length. As described in the application, the proposed activities would be expected to take up to 18 months and any EFP would be valid for up to 18 months from date of issuance.

Before cable retrieval activities commence, the applicant is proposing to conduct benthic surveys to identify and record the presence of coral species and other species (sponges, mollusks, anemones, etc.) along each cable corridor. These surveys would be conducted via a remotely operated vehicle (ROV) operated from a 115-ft (35 m) survey vessel. The ROV would remove as many organisms as possible from the cable and transplant them to the surrounding area, ensuring adequate distance from the cable so they are not impacted during the cable recovery phase. The ROV would not bring organisms to the surface but would instead relocate those organisms at depth. If there are too many organisms on a particular section of cable to

effectively relocate them by ROV, or if the organisms are too large or too small to relocate, the ROV would not remove and transplant them. Instead, for those sections of cable with large organisms or dense aggregations, the ROV would cut the submarine cable on either side of these organisms and that section would remain on the bottom with organisms attached. Sections of cable with organisms that are too small to be removed and transplanted would be retrieved during the cable recovery phase.

Once the benthic surveys and any organism relocations are complete, the ROV would then locate the cable retrieval start point and prepare the cable for retrieval. The cables would be retrieved through the use of a 275-ft (84-m) pipe lay barge. As each cable is being retrieved, any attached coral and invertebrates remaining on the cable would be removed onboard the barge using a specialized funnel fitted around the cable. Resultant specimens would be deposited into a collection container monitored by Clean Ocean's marine biologist. Species information and measurements of all collected organisms would be recorded, and corals and invertebrates selected for further study would be identified. Those specimens selected for further study

would be placed in a controlled aquatic storage area onboard the survey vessel and any remaining specimens would be returned to the water from the barge as soon as possible with as little harm practicable. Retained specimens would be transferred to Clean Ocean's Coral Research Center in Ponce, Puerto Rico, and made available to scientists and graduate students for the study of their taxonomy, growth, behavior, and genetics.

The EFP would allow Clean Ocean to harvest and possess non-ESA-listed corals from Federal waters for which harvest is otherwise prohibited. The majority of the operations under the EFP would occur at depths where there is little to no light penetration; thus, any corals anticipated to be encountered on the cables would be deep-water species. Cable diameters depend on the type of cable, fiber optic or coaxial, and range from 1.75 to 3 inches (4.4 – 7.6 cm). Deep-water corals tend to grow at a slow rate, but these submarine cables have been on the bottom for over 50 years, providing adequate time for early settlers to grow to a substantial size. Clean Ocean conducted preliminary benthic surveys of its cable retrieval operations, in territorial waters at depths from 100 to 250 ft (30.5 to 76.2 m), to

evaluate organisms and habitats along the cable corridors. Based on those initial results, Clean Ocean expects that most of the cable lengths to be retrieved are submerged under the sand and have few, if any, organisms attached. Moreover, given the operating depths for the activities under the proposed EFP, which occur in deeper Federal waters, it is not expected that the applicant would encounter any ESA-listed corals. Finally, the USACE conditioned the permits for the cable retrieval so that those activities, which start in shallower territorial waters, occur at depths where ESA-listed corals are not expected to occur.

In addition to non-ESA listed corals, federally managed aquarium trade species, including sponges, anemones, polychaete worms, feather stars, and tunicates, could potentially be collected during the proposed activities. Aquarium trade species are managed in the U.S. Caribbean EEZ under an annual catch limit (ACL) of 8,155 lb (3,699 kg), round weight. The ROV would be expected to remove most organisms from the cable prior to cable retrieval commences, and it is unlikely that the amount of organism fragments remaining attached to the cable,

collected onboard the barge, and selected for further study would contribute substantially to the landings quota against which the aquarium trade species ACL is compared. As part of the permit conditions, NMFS intends to limit the amount of aquarium trade species to be retained by Clean Ocean during the proposed activities. Clean Ocean personnel will be trained and prepared to prevent damage to sensitive areas and a marine biologist will be onboard at all times to identify and report any sensitive environmental resources and to stop operations if necessary.

NMFS finds this application warrants further consideration, based on a preliminary review. In addition to the above, possible conditions the agency may impose on this permit, if it is granted, include but are not limited to, requiring Clean Ocean to submit monthly reports on the amount of coral and aquarium trade species collected, and to announce at least daily the present and following week's anticipated start and stop locations via VHF channel 16 to allow fishers time to relocate their gear and avoid trap-cable interactions.

A final decision on issuance of the EFP will depend on NMFS' review of public comments received on the application,

consultations with the affected state(s), the Council, and the U.S. Coast Guard, and a determination that it is consistent with all applicable laws.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 6, 2018.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

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